

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to pharmacy copayment and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 129.

Purpose and Summary

This proposed amendment makes the pharmacy copayment a flat copayment of \$1 per prescription or refill. Consistent with federal regulations and state legislative requirement, the copayment will no longer be based on the preferred or nonpreferred status of the drug on the preferred drug list (PDL).

This amendment is technical in nature because this copayment policy of \$1 per prescription or refill has been in place to implement the federal final rule (CMS-2334-F) requirement. The copayment requirement provides that a nonpreferred drug copay must be limited to the amount of a preferred drug copay when the nonpreferred drug is deemed medically necessary by the prescribing provider. Since implementation of this final rule, all Medicaid drug copayments are the preferred amount of \$1, because a Medicaid member would not get a nonpreferred drug unless the drug was medically necessary.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 21, 2018. Comments should be directed to:

Harry Rossander
Bureau of Policy Coordinator
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: policyanalysis@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend paragraph **79.1(13)“a”** as follows:

a. The member shall pay a copayment of \$1 for each covered prescription or refill of any covered drug. as follows:

~~(1) One dollar for generic drugs and preferred brand-name drugs. Any brand-name drug that is not subject to prior approval based on nonpreferred status on the preferred drug list published by the department pursuant to Iowa Code section 249A.20A shall be treated as a preferred brand-name drug.~~

~~(2) Rescinded IAB 7/6/05, effective 7/1/05.~~

~~(3) One dollar for nonpreferred brand-name drugs for which the cost to the state is less than \$25.~~

~~(4) Two dollars for nonpreferred brand-name drugs for which the cost to the state is \$25.01 to \$50.~~

~~(5) Three dollars for nonpreferred brand-name drugs for which the cost to the state is \$50.01 or more.~~

~~(6) For the purpose of this paragraph, the cost to the state is determined without regard to federal financial participation in the Medicaid program or to any rebates received.~~